



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 31, 1994

Mr. Robert E. Hager  
Law Offices of Nichols, Jackson, Dillard,  
Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201

OR94-165

Dear Mr. Hager:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 23938.

The City of Coppell (the "city"), which you represent, received an open records request for the following:

Any and all complaints filed by a citizen or employee of the City of Coppell against Coppell Police Capt. Gary Nix during the past four years. I also respectfully request a copy of any formal reprimands Nix has received as an employee of the Coppell Police Department.

You have submitted to this office as responsive to the request the records of an internal affairs investigation of a complaint that a city employee filed against Gary Nix and related notices to two city employees informing them of their being on paid administrative leave during the pendency of the investigation. Although you contend that the city police department's internal affairs investigation as a whole comes under the protection of section 552.108 of the Government Code, this ruling addresses only whether the city must release the complaint that gave rise to the investigation.<sup>1</sup>

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<sup>1</sup>Because you have not submitted to this office for review copies of any "formal reprimands" against Officer Nix, and because the allegations contained in the complaint you submitted to this office were determined to be "unfounded," we assume that no such letters of reprimand exist.

You first contend that the requested complaint comes under the protection of section 552.111 of the Government Code. Section 552.111 excepts interagency and intra-agency memoranda and letters, but only to the extent that they contain advice, opinion, or recommendation intended for use in the entity's policymaking process. Open Records Decision No. 615 (1993) at 5. The purpose of this section is "to protect from public disclosure advice and opinions *on policy matters* and to encourage frank and open discussion within the agency in connection with its decision-making processes." *Austin v. City of San Antonio*, 630 S.W.2d 391, 394 (Tex. App.--San Antonio 1982, writ ref'd n.r.e.) (emphasis added). In Open Records Decision No. 615 at 5, this office held that

to come within the [section 552.111] exception, information must be related to the *policymaking* functions of the governmental body. An agency's policymaking functions do not encompass routine internal administrative and personnel matters . . . . [Emphasis in original.]

The information contained in the complaint does not relate to the policymaking function of the city's police department, but rather pertain solely to an "internal administrative and personnel matter" and as such does not come under the protection of section 552.111.

You next contend that the city must withhold the complaint because the release of this information would violate the privacy interests of certain individuals by placing them in a "false light." In previous rulings to the city addressed to you, this office has held that information may not be withheld from the public under this theory. See Open Records Letters Nos. 94-103 (1994); 93-667 (1993). For the reasons expressed in those rulings, we reject your contentions here.

Finally, we address your contention that the complaint comes under the protection of section 552.108 of the Government Code, which protects

- (a) A record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . . [and;]
- (b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement.

When a governmental body claims section 552.108, it must demonstrate how the release of the requested information would undermine a legitimate interest relating to law enforcement or prosecution. Open Records Decision No. 434 (1986). Whether disclosure of particular records will unduly interfere with law enforcement must be decided on a case-by-case basis. Attorney General Opinion MW-381 (1981). You have not demon-

strated how the release of the complaint in this instance would unduly interfere with law enforcement.<sup>2</sup> Consequently, the city must release the complaint in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Rick Gilpin  
Assistant Attorney General  
Open Government Section

RG/RWP/rho

Ref.: ID# 23938  
ID# 24048  
ID# 24296

Enclosures: Submitted documents

cc: Mr. Michael Coleman  
Reporter  
Harte-Hanks Community Newspapers  
1712 E. Beltline Road  
Carrollton, Texas 75006  
(w/o enclosures)

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<sup>2</sup>We note that Officer Nix has been informed of the nature of the complaint and the identity of the city employee who filed the complaint against him.